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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,888	01/15/2004	Timothy B. Ely	450634.90018	5174

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EXAMINER	
BOSWELL, CHRISTOPHER J	
ART UNIT	**PAPER NUMBER**
3676	

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/757,888	ELY ET AL.	
	Examiner	Art Unit	
	Christopher Boswell	3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 October 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-39* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☒ Claim(s) *1-39* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *28 March 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 2, 9-13, 27-29, and 36-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent number 5,161,838 to Ely et al. in view of U.S. Patent Number 5,542,722 to DeWalch.

Ely et al. discloses the invention substantially as claimed. Ely discloses a locking assembly for locking first (66) and second members (68) together, the assembly having a housing member (2), a retention member (14) disposed in the through hole, and a stud member (30) including a head portion (42) and a shank portion (32) joined by a separable portion (50), the shank portion being received in the through hole through the insertion end and engaging the retention member to prevent removal of the shank portion from the through hole through the insertion end (figure 3), wherein with the first and second members disposed between the housing member body portion and the stud member head portion, upon breaking of the separable portion, the head portion separates from the shank portion to allow separation of the first and second members and removal of the shank portion from the through hole through the exit end (column 4, lines 33-38), as in claim 1, where the retention member is a snap ring (14) disposed in a groove (12) formed in an inside wall (10) of the through hole, and the shank portion includes a circumferential groove (44) adapted to receive the snap ring to prevent removal of the shank

portion from the housing member (column 3, lines 55-59), as in claim 2, and the housing member body portion having a flange portion (6) extending radially outwardly from the remainder of the body portion, as in claim 13, and a ring member (60) having a ring axis and adapted to fit about a cover portion of a meter (figure 6), the ring member having first (62) and second ends (64), the first member extending from the first ring member end includes a first leg (66) with a first hole (70) formed therethrough, and the second member extending from the second ring member end includes a second leg (68) with a second hole (72) formed therethrough, the first and second legs extending generally parallel to each other in an overlapping relation, such that the first and second holes are aligned (figures 4 and 5) and the housing member and the stud member extend through the first and second holes (figures 4 and 5), as in claims 9 and 27.

However, Ely et al. do not disclose the housing having a through hole formed therethrough, as well as the first and second holes have axes parallel to the axis of the ring. DeWalch teaches of a tamper resistant meter locking ring (10) having a housing member (70 and 90) having a through hole formed therein, the through hole having an insertion end (72) and an exit end (92), where the ring member is sized to fit about a cover portion of a meter (column 1, lines 10-14), where the through holes of the ring member are parallel to the axis of the ring (figure 4), where the housing member is fixed to the first leg through the first hole (figure 5), as in claims 10 and 36, wherein the housing member is received in the second hole formed in the second leg to maintain the holes in an aligned relationship (figure 5), as in claims 11 and 37, as well as the distal ends of the first and second legs are shaped to expose engagement surfaces of the first and second legs for separating the first and second legs (figure 4), as in claims 12 and 38 in the same field of endeavor for the purpose of providing a locking ring and

associated lock housing that has a mutually protective end design, that provides improved resistance to physical destruction (column 2, lines 13-15). It would have been obvious to one with ordinary skill in the art at the time the invention was made to utilize the teachings of DeWalch to have the lock housing being parallel to the axis of the ring member and lock housing having a through hole with the locking assembly of Ely et al. where the legs of the ring member would have holes therein, parallel to the axis of the ring member, to receive the lock housing, where the lock housing would have a through hole to allow the stud member to slide through the through hole to easily replace the stud member after the head portion has been separated from the shank portion and where the respective holes within the legs of the ring member would retain the lock housing therein to incorporate a mutually protective end design, that provides improved resistance to physical destruction.

Ely et al. additionally disclose the retention member is a snap ring (14) disposed in a groove (12) formed in an inside wall (10) of the through hole, and the shank portion includes a circumferential groove (44) adapted to receive the snap ring to prevent removal of the shank portion from the through hole through the insertion end (column 3, lines 55-59), as in claim 28, and upon breaking of the separable portion, the head portion separates from the shank portion to allow separation of the first and second members and removal of the shank portion from the through hole through the exit end, as in claim 29, as well as the housing member body portion has a flange portion (6) extending radially outwardly from the remainder of the body portion, as in claim 39.

Claims 14, 16-20, and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ely et al., as applied above, and further in view of U.S. Patent Number 4,226,102 to Mattress, Jr.

Ely et al. disclose the invention substantially as claimed. Ely et al. disclose a locking assembly for locking first (66) and second members (68) together, the assembly having a housing member (2) having a hole (4) formed therein, a retention member (14) disposed in the through hole, and a stud member (30) including a head portion (42) and a shank portion (32) joined by a separable portion (50), the shank portion being received in the through hole through the insertion end and engaging the retention member to prevent removal of the shank portion from the through hole through the insertion end (figure 3), wherein with the first and second members disposed between the housing member body portion and the stud member head portion, upon breaking of the separable portion, the head portion separates from the shank portion to allow separation of the first and second members and removal of the shank portion from the through hole through the exit end, as in claims 14. However, Ely et al. do not disclose a seal fixed over the head portion of the shank. Mattress teaches of a seal (18), having indicia and a tab (figures 2 and 3, where a user can place an indicia on the bond of the seal), as in claims 16-17 and 20, that is fixed to a locking stud (29) and a housing for the lock assembly in a locking assembly for a meter box, such that, when the seal is permanently deformed upon separating the stud from a housing in the same field of endeavor for the purpose of indicating if an attempt to tamper with the lock has been made (column 6, lines 62-68). It would have been obvious to one with ordinary skill in the art at the time the invention was made to apply the seal of Mattress, with a tab and indicia, through the head and shank portions of the Ely, by threading the wire of

the seal through the head portion, and thus covering the head portion, in order to indicate if an attempt to tamper with the lock has been made, as in claims 14, 16-17, and 20.

Ely further discloses a retaining ring (34) that engages the head portion, as in claims 18-19, as well as the retention member being a snap ring (14) disposed in a groove (12) formed in an inside wall (10) of the through hole, and the shank portion includes a circumferential groove (44) adapted to receive the snap ring to prevent removal of the shank portion from the through hole through the insertion end (column 3, lines 55-59), as in claim 26, as well as the housing member body portion has a flange portion (6) extending radially outwardly from the remainder of the body portion, as in claim 25.

Claims 3-8, 15, 21-24, and 30-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ely et al. and DeWalch, as applied above, and further in view of U.S. Patent Number 4,226,102 to Mattress, Jr.

Ely et al. and DeWalch disclose the invention substantially as claimed. However, Ely et al. and DeWalch do not disclose a seal fixed over the head portion of the shank. Mattress teaches of a seal (18), having indicia and a tab (figures 2 and 3, where a user can place an indicia on the bond of the seal), as in claims 4-5, 8 31-32, and 35, that is fixed to a locking stud (29) and a housing for the lock assembly in a locking assembly for a meter box, such that, when the seal is permanently deformed upon separating the stud from a housing in the same field of endeavor for the purpose of indicating if an attempt to tamper with the lock has been made (column 6, lines 62-68). It would have been obvious to one with ordinary skill in the art at the time the invention was made to apply the seal of Mattress, with a tab and indicia, through the head and shank

portions of Ely et al. and DeWalch, by threading the wire of the seal through the head portion, and thus covering the head portion, in order to indicate if an attempt to tamper with the lock has been made, as in claims 3-8, and 30-35.

Ely further discloses a retaining ring (34) that engages the head portion, as in claims 6-7 and 33-34.

Furthermore, Ely et al. and Mattress, Jr. disclose a ring member (60) having a ring axis and adapted to fit about a cover portion of a meter (figure 6), the ring member having first (62) and second ends (64), the first member extending from the first ring member end includes a first leg (66) with a first hole (70) formed therethrough, and the second member extending from the second ring member end includes a second leg (68) with a second hole (72) formed therethrough, the first and second legs extending generally parallel to each other in an overlapping relation, such that the first and second holes are aligned (figures 4 and 5) and the housing member and the stud member extend through the first and second holes (figures 4 and 5), as in claim 21. However, Ely et al. and Mattress, Jr. do not disclose the housing having a through hole formed therethrough, as well as the first and second holes have axes parallel to the axis of the ring. DeWalch teaches of a tamper resistant meter locking ring (10) having a housing member (70 and 90) having a through hole formed therein, the through hole having an insertion end (72) and an exit end (92), where the ring member is sized to fit about a cover portion of a meter (column 1, lines 10-14), where the through holes of the ring member are parallel to the axis of the ring (figure 4) where the housing member is fixed to the first leg through the first hole (figure 5), as in claim 22, wherein the housing member is received in the second hole formed in the second leg

to maintain the holes in an aligned relationship (figure 5), as in claim 23, as well as the distal ends of the first and second legs are shaped to expose engagement surfaces of the first and second legs for separating the first and second legs (figure 4), as in claim 24, in the same field of endeavor for the purpose of providing a locking ring that has a mutually protective end design, that provides improved resistance to physical destruction (column 2, lines 13-15). It would have been obvious to one with ordinary skill in the art at the time the invention was made to utilize the teachings of DeWalch to have the lock housing being parallel to the axis of the ring member and lock housing having a through hole with the locking assembly of Ely et al. and Mattress, Jr. where the legs of the ring member would have holes therein, parallel to the axis of the ring member, to receive the lock housing, where the lock housing would have a through hole to allow the stud member to slide through the through hole to easily replace the stud member after the head portion has been separated from the shank portion and where the respective holes within the legs of the ring member would retain the lock housing therein to incorporate a mutually protective end design, that provides improved resistance to physical destruction.

Response to Arguments

Applicant's arguments filed October 3, 2005 have been fully considered but they are not persuasive. Regarding the argument that DeWalch does not suggest a through hole having an insertion end and an exit end contributes anything to the objectives of providing a ring member having a mutually protective end configuration; wherein, the desire to improve resistance to physical destruction does not provide any motivation to modify Ely et al. and form a through hole having an insertion end and exit end through the housing. As discussed above the DeWlach

teaches a housing having a through hole formed therethrough, as well as the first and second holes have axes parallel to the axis of the ring, where the through hole in the housing is utilized to allow the stud member to pass through both the insertion hole and the exit hole when the head portion is separated from the shank (clarified above), wherein the holes within the legs are positioned to have an axis parallel to the axis of the ring member in order to have a mutually protective end configuration that provides an improved resistance to physical destruction. Wherein, it has been held that the test for obviousness is not whether the features of one reference may be bodily incorporated into the other to produce the claimed subject matter but simply what the combination of the references makes obvious to one of ordinary skill in the pertinent art. *In re Bozek*, 163 USPQ 545 (CCPA 1969).

Regarding the argument that Mattress, Jr. does not suggest that the seal covers the head portion of the lock pin, the examiner respectfully disagrees. Mattress, Jr. discloses apertures within a housing and the locking pin were the seal is received, wherein the seal is threaded through the aforementioned apertures and cover a portion of the head portion of the lock pin (column 4, lines 60-65), thereby preventing unauthorized removal as well as indicating tampering thereon. Thus, as indicated above it would have been obvious to one with ordinary skill in the art at the time the invention was made to thread the seal, with a tab and indicia, through the head portion of the shank member, by threading the wire of the seal through the head portion, and thus covering the head portion, in order to indicate if an attempt to tamper with the lock has been made.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Boswell whose telephone number is (571) 272-7054. The examiner can normally be reached on 9:00 - 4:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CJB CB
December 5, 2005

BRIAN E. GLESSNER
SUPERVISORY PATENT EXAMINER